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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,096	10/04/2000	Sol Aisenberg	EXC-0001	9651

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EXAMINER
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JEFFERY, JOHN A

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 06/03/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/679096

Applicant(s)

Aisenberg et al

Examiner

Jeffery

Group Art Unit

3742

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2/28/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.**

## Disposition of Claims

- ☒ Claim(s) 36-43 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 36-43 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Applicant Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Claims 39-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In all claims, the limitation that the air jet "blows off at least 75% of the water from the hands in less than 3 seconds" is vague and indefinite since the metes and bounds of the claim cannot be reasonably ascertained. The limitation is necessarily dependent upon how much water is initially on the user's hands which inevitably varies from user to user; the limitation is therefore inherently uncertain. The same problem arises in connection with the limitation "when dried, said hands have less than 0.3 grams of water remaining on said hands."

Also, the limitation that the hands "do not cool due to evaporation of remaining water" is vague and indefinite for the above reasons.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

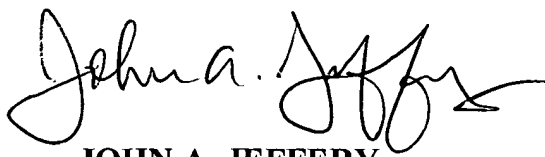
Claims 36-40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbertson (US4634839) in view of Tomaro (US4327278). Gilbertson (US4634839) discloses an electrically heated dryer with a blower for directing air via cylindrical nozzle 34. See Col. 1, lines 5-15. The claim differs from the previously cited prior art in calling for the blower to generate an air velocity of no less than 18,000 fpm. According to the instant specification on Page 17, lines 10-15, to achieve such an airflow rate, a motor that operates at greater than 15,000 rpm must be used. While the specific air velocity of the blower of the previously described apparatus is not recited, providing blowers which operate in excess of 15,000 rpm in electrically heated hair dryers is conventional and well known in the art as evidenced by Tomaro (US4327278) noting Col. 2, lines 55-57 wherein a blower motor with a loaded speed of 19,000 rpm is disclosed. In view of Tomaro (US4327278), it would have been obvious to one of ordinary skill in the art to utilize a blower motor in excess of 15,000 rpm in the previously described apparatus in order to increase the rotational rate of the blower thereby increase the heated airflow issuing therefrom. While motor rotation rate is not the only

parameter involved that affects airflow, it is a substantial factor in achieving a desired flow rate. This is evidenced by Applicant's point in the specification noting the criticality of the motor rpm value of greater than 15,000 rpm. Furthermore, it is well settled that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233,235 (CCPA 1955). Here, choosing the specific parameters of other factors influencing airflow rate such as fan blade size, angle, and the like to maximize the flow rate of aspirated air in a heated air blower is well within the parameters of routine experimentation. Furthermore, while the specific (1) outlet size, (2) outlet length, (3) air jet pressure, and (4) air jet temperature are not specified, choosing the optimum (1) dimensions for the outlet, (2) air jet pressure, and (3) air jet temperature to achieve a desired convective heating effect is well within the level of one of ordinary skill in the art and would be the product of routine experimentation and optimization.

Claims 41 and 43 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112.

Any inquiry concerning this or earlier communications from the examiner should be directed to John A. Jeffery at telephone number (703) 306-4601 or fax (703) 305-3463. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM EST. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.



**JOHN A. JEFFERY**  
**PRIMARY EXAMINER**

**5/15/02**